

MEMORANDUM

December 15, 2006

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: J. PETER FISKE
Kohrs & Fiske

BRIAN T. CHU
Principal Deputy County Counsel
General Litigation Division

RE: Scott Ehret and Sandra Ehret v. County of Los Angeles
Los Angeles Superior Court No. KC047510

DATE OF
INCIDENT: February 14, 2005

AUTHORITY
REQUESTED: \$30,000

COUNTY Department of Public Works/Sewer
DEPARTMENT: Special District General Liability Trust Fund

CLAIMS BOARD ACTION:



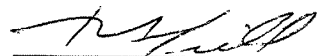
Approve



Disapprove



Recommend to Board of
Supervisors for Approval



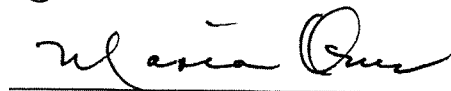
ROCKY A. ARMFIELD

, Chief Administrative Office



JOHN F. KRATTLI

, County Counsel



MARIA M. OMS

, Auditor-Controller

on December 27, 2006

SUMMARY

This is a recommendation to settle for \$30,000 the lawsuit filed by Scott and Sandra Ehret, seeking damages to their home and personal property caused by a sewer back-up into their house, which resulted from a sewer main line blockage on February 14, 2005.

LEGAL PRINCIPLE

The County may be held liable for inverse condemnation based on a claim for property damages caused by a sewer blockage.

SUMMARY OF FACTS

On February 14, 2005, Scott and Sandra Ehret experienced a back-up of raw sewage in the bathtub drains and toilets in their residence located at 419 N. Eucla Avenue, in the City of San Dimas. The sewage flowed onto the bathroom floors, hallway, kitchen and dining room. Mrs. Ehret called a plumber who later determined that the back-up was due to a blockage in the sewer main line. A County sewer crew was called to the Ehret's house and cleared the sewer main line of overgrown roots. The County received a second call the next day and rodded the main line again.

DAMAGES

If this matter were to proceed to trial, it is expected that Mr. and Mrs. Ehret will likely claim total damages categorized as follows:

| | |
|------------------------------|------------------|
| Plumbing Repairs | \$ 230 |
| Property Clean-Up & Repairs | \$ 18,405 |
| Personal Property Damage | \$ 290 |
| Loss of Earnings | \$ 1,080 |
| Lost Use of Home | \$ 1,590 |
| Diminution in Value of House | \$ 12,500 |
| Emotional Distress | <u>\$ 12,500</u> |
| TOTAL | \$ 46,595 |

If Mr. and Mrs. Ehret were to prevail on the inverse condemnation claim, they also would be entitled to attorneys' fees and experts' costs, which at this time approximate \$12,250. However, if they were to prevail on a nuisance cause of action, they would not be entitled to attorneys' fees, but would be able to recover emotional distress damages.

STATUS OF THE CASE

Mr. and Mrs. Ehret filed suit against the County claiming damages for inverse condemnation, nuisance, dangerous condition of public property and negligence. The court has placed this matter on its settlement calendar. This case was roundtabled, and this tentative settlement was reached before mediation.

The Ehret's initial settlement demand was \$55,990, which included amounts for attorneys' fees and costs. Subsequent negotiations resulted in a settlement for the proposed amount. Approximate expenses incurred by the County in defense of this matter are attorneys' fees of \$6,873.60 and costs of \$470.33.

EVALUATION

This is a case of undisputed liability. The main sewer line at this location is located in the City of San Dimas and included in the Consolidated Sewer Maintenance District which is maintained by the County. Main line inspections are performed twice each year to identify blockages and to complete as-needed cleaning. Sections of main line with known maintenance concerns are placed on periodic cleaning schedules varying from every 30 days to 180 days, depending on the location. This main line was inspected before this incident on December 8, 2004, with no deficiencies noted.

It is undisputed that roots created a stoppage in the main line and that wastewater backed-up into the Ehret's residence through the lateral line.

The amounts claimed for the house clean-up and repairs and personal property damages have been reviewed and appear reasonable. We also retained a real estate appraiser to confirm the diminished value of the house for having to disclose the sewer back-up history to future prospective buyers of the house. If Mr. and Mrs. Ehret were to prevail on any of the theories of liability, the potential award of damages and our cost of defense would likely significantly exceed the proposed settlement amount.

RECOMMENDATION

We join with our third party administrator, Carl Warren and Company, and our private counsel, Kohrs & Fiske, in recommending a total settlement of this matter in the amount of \$30,000. The Department of Public Works concurs in this settlement recommendation.

APPROVED:

A handwritten signature in black ink, appearing to read "Ralph L. Rosato", written over a horizontal line.

RALPH L. ROSATO
Assistant County Counsel
General Litigation Division

BTC:ac